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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,844	12/20/2000	Rudy Bonefas	003636.0099	3893

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MANELLLI DENISON & SELTER PLLC
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WASHINGTON, DC 20016

EXAMINER

PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2451

MAIL DATE	DELIVERY MODE
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12/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/739,844	Applicant(s) BONEFAS ET AL.	
	Examiner HASSAN PHILLIPS	Art Unit 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,21-24,26-29 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19,21-24,26-29 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to communications filed September 4, 2009.

Claims 19, 21-24, 26-29, and 31-33 are currently pending.

Response to Arguments

2. Applicant's arguments filed September 4, 2009, have been fully considered but they are not persuasive. Applicant argued: "although Chen et al. disclose load balancing generally, they do not show such load balancing utilized in an intelligent network where load balancing is performed with respect to a particular supported protocol among a plurality of network protocols." Applicant further remarked: "thus, one can view differences of the invention over the cite[d] art by considering load balancing relative to message transfer activity for each of the network supported protocols rather than load balancing according to overall activity of the protocol gateways."

3. In response to applicant's remarks, while the examiner agrees that the cited art fails to expressly disclose load balancing relative to message transfer activity for each of the network supported protocols rather than load balancing according to overall activity of the protocol gateways, the examiner submits that applicant's claimed invention fails to recite such a limitation. Furthermore, the examiner has failed to find such teachings in applicant's disclosure on pg. 6 as suggested by the applicant. Instead, the examiner only found teachings of routing a message using a round-robin

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load balancing method to a least recently used protocol gateway, (see pg. 34, lines 24-27).

4. Accordingly, even when reading in light of applicant's disclosure, the references supplied by the examiner in the previous office action covers the claimed limitations. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19, 21-24, 26-29, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson U.S. Patent 5,511,122 in view of Chen et al. (hereinafter Chen, U.S. Patent 7,062,556).

7. In considering claims 19, 24, and 29, Atkinson discloses a message router (i.e. R1-R6) for routing a message between a server (i.e. HOSTA, HOSTB) and a plurality of protocol gateways (i.e. G1-G4) that include processors to encapsulate and transparently convey messages with a plurality of message sources utilizing respective

network protocols (see Fig. 2), the message router comprising: an authenticator to authenticate that a particular source of a message is an authorized user of a messaging network, said authenticator authenticating said particular source of said message before said message is routed by said message router, (col. 11, lines 1-26).

Although the teachings of Atkinson disclose substantial features of applicant's claimed invention, they fail to expressly disclose: a load balancer module associated with said message router to determine a historical message transmission record for said plurality of protocol gateways, said transmission record comprising identification of a least recently used protocol gateway supporting a protocol of said source of said message among said plurality of network protocols of message sources; and a processor to route said message based on said determined least recently used protocol gateway for said source of said message that utilizes said supported protocol.

Nevertheless, a load balancer module to determine a historical record for a plurality of servers comprising a least recently used server supporting a protocol of a source of a message, and routing the message based on the determined least recently used server was well known in the art at the time of the present invention. This is exemplified in the teachings of Chen, where in a description of the background of the invention Chen discloses a load balancer module to determine a historical record for a plurality of servers comprising a least recently used server supporting a protocol of a source of a message, and routing the message based on the determined least recently used server, (col. 2, lines 15-19, col. 5, lines 4-13).

Thus, it would have been obvious to a person of ordinary skill to modify the teachings of Atkinson to expressly disclose a load balancer module associated with said message router to determine a historical message transmission record for said plurality of protocol gateways, said transmission record comprising identification of a least recently used protocol gateway supporting a protocol of said source of said message among said plurality of network protocols of message sources; and a processor to route said message based on said determined least recently used protocol gateway for said source of said message that utilizes said supported protocol. As was known in the art, this would have advantageously ensured fair and balanced resource utilization of the resources at the gateways, (Chen, col. 1, lines 56-60, col. 2, lines 1-5).

8. In considering claims 21, 26, and 31, although the teachings of Atkinson disclose substantial features of applicant's claimed invention, they fail to expressly disclose: wherein said message router is a least recently used message router.

Nevertheless, as disclosed by Chen a least recently used server was well known in the art at the time of the present invention, (col. 2, lines 15-19, col. 5, lines 4-13).

Thus, it would have been obvious to a person of ordinary skill to modify the teachings of Atkinson to expressly disclose wherein said message router is a least recently used message router. As was known in the art, this would have advantageously ensured fair and balanced resource utilization of the resources at the router, (Chen, col. 1, lines 56-60, col. 2, lines 1-5).

9. In considering claims 22, 27, and 32, Atkinson discloses said message router routes said message to a most specific server corresponding to a message key, (col. 11, lines 1-26, and line 55-col. 12, line 3).

10. In considering claims 23, 28, and 33, Atkinson discloses said message router routes said message based on a content of said message (i.e. Address B), (see Fig. 4).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HASSAN PHILLIPS whose telephone number is (571)272-3940. The examiner can normally be reached on Mon-Fri (9am-6pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hassan Phillips/
Primary Examiner, Art Unit 2451